

**CHAPTER 1200-3-4  
OPEN BURNING**

**S1200-3-4-.01    PURPOSE**

It is the purpose of this Chapter to establish controls on open burning so as to prevent undesirable levels of air contaminants in the atmosphere.

**Authority:**        *T.C.A. Section 68-25-105. Administrative History. Original rule certified June 7, 1974.  
Amended effective February 9, 1977.*

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1 <sup>ST</sup> REVISION		MARCH 29, 1985	50 FR 12540

**1200-3-4-.02 OPEN BURNING PROHIBITED**

No person shall cause, suffer, allow or permit open burning:

- (a) in any particulate matter nonattainment area nor at any location Within one-half mile of the boundary of a particulate matter nonattainment area (except for the matters listed in paragraph 1200-3-4-.03-(1))
- (b) in other areas, except as specifically permitted in this Chapter.

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### 1200-3-4-.03      EXCEPTIONS TO PROHIBITION

- (1) Open burning, as listed below, may be conducted without permits, subject to specified limitations and provided further that no public nuisance is or will be created by such open burning. This grant of exemption shall in no way relieve the person responsible for such burning from the consequences or the damages, injuries, or claims resulting from such burning.
  - (a) Domestic burning, exclusive of garbage, at a property consisting of not more than four (4) dwelling units, and used exclusively as private residences where collection services for such material is not available. Collection service will be considered available if provided as a public service, or is such may be obtained at a reasonable cost other than as a public service.
  - (b) Fire used for cooking of food or ceremonial or recreational purposes, including barbecues and outdoor fireplaces. This exception does not include commercial food preparation facilities and their operation.
  - (c) Fires used to clear land of materials grown on land for agricultural, forest, or game management purposes provided no land, air, or water traffic hazard is created.
  - (d) Fires set by or at the direction of responsible fire control agencies for the prevention, elimination, or reduction of a fire hazard.
  - (e) Smokeless flares of safety flares for the combustion of waste gases, provided other remaining applicable conditions of the regulations are met.
  - (f) The burning of the bodies of diseased animals, if required by Tennessee Code Annotated, Section 44-428 and/or 44-703.
- (2) None of the exceptions listed in Paragraph (1) above are to be construed to allow the open burning of rubber tires or similar materials.
- (3) Open burning, as listed below, may be conducted only when authorized by a specific permit, and then only when done in conformity with the following conditions and any special conditions and terms of the permit.
  - (a) Open burning of trees, limbs, brush, lumber, excelsior, dunnage, and other items of comparable combustion characteristics, for a one-time occurrence, such as the clearing of a construction site, provided the following conditions are met:
    1. The site of such burning is not nearer than one-half mile to an airport, school nursing home, and/or hospital.
    2. The site of such burning is not nearer than one thousand (1000) feet of a designated primary or secondary highway, national reservation, national or state park, wildlife area, national or state forest, schools and/or residents not on the same property as the burning site. Where three or less residences are located within one thousand (1000) feet of the proposed burning site a permit may still be approved under this part if the occupants give written consent.
    3. The site of such burning is not nearer than five hundred (500) feet to any registered sanitary landfill, other land disposal site for combustible solid waste, or other similar facility.
    4. Burning is conducted with time periods and in accordance with other requirements

designated by the Technical Secretary. As a general rule, open burning will not be permitted except between the hours of 9:00 a.m. and 3:30 p.m.

- (b) Open burning of trees, limbs, brush, lumber, excelsior, dunnage, and other items of comparable combustion characteristics, for repetitive burning at the same site, provided the following conditions are met:
  - 1. The site of such burning is not nearer than one (1) mile to an airport, hospital, nursing home, school and/or designated primary highways.
  - 2. The site of such burning is not nearer than one-half mile of the designated secondary highway, national reservation, national or state park, wildlife area, national or state forest, and/or residences except such residences as may be located on the same property as the burning site.
  - 3. The site of such burning is not nearer than five hundred (500) feet to any registered sanitary landfill, other land disposal sites for combustible solid waste, or other similar facilities.
  - 4. Burning is conducted within time periods and in accordance with the requirements designated by the Technical Secretary. As a general rule, open burning will not be permitted except between the hours of 9:00 a.m. and 3:30 p.m.
- (c) Open burning of the materials specified in subparagraphs (a) and (b) above, is not allowed where the conditions specified in subparagraph (a) and/or (b) are not met, unless an air curtain destructor (or equivalent disposal method as determined by the Technical Secretary) is to be used. Even when an air curtain destructor is used, the following conditions must be met:
  - 1. When the burning is to be a one-time occurrence, the site of the air curtain destructor must not be nearer than:
    - (i) one hundred (100) feet to national or state park, national or state forest, residence not on the same property as the air curtain destructor, and designated primary and secondary highways.
    - (ii) five hundred (500) feet to any airport, school, registered sanitary landfill, other land disposal site for combustible solid waste, or other similar facilities.
    - (iii) one thousand (1000) feet to a nursing home or hospital.
  - 2. When there will be repetitive burnings at the same site, the air curtain destructor must not be located nearer than:
    - (i) five hundred (500) feet to any registered sanitary landfill, other similar facilities, and/or designated primary and secondary highways.
    - (ii) one thousand (1000) feet to any school, national or state park, national reservation, national or state forest, wildlife area, and/or residence not on the same property as the air curtain destructor.
    - (iii) one-half mile to any nursing home or hospital.
  - 3. The plume from the air curtain destructor must meet the visible emission standards

specified in Rule 1200-3-5-.01-(1), however, for certain materials the Technical Secretary may allow one startup period per day, not to exceed 25 minutes in 24 hours.

4. An air curtain destructor may be operated at any time of day provided it meets the conditions outlined in this subparagraph (c), but the startup period allowed in part 3, above, must occur between the hours of 7:00 a.m. and 3:30 p.m., as a general rule.
- (d) Burning at the site of origin of waste hydrocarbons from oil explorations, development or production, or from materials spilled or lost from pipeline breaks where, because of the isolated location, the materials cannot be reclaimed, recovered or disposed of lawfully in some other manner, provided however, that any such burning shall not be nearer than ten (10) miles to any municipality having a population of more than 25,000 nor nearer than five (5) miles from any municipality with a population of 2,500 to 25,000. Such populations are to be those of the latest available federal census.
- (e) Such open burning as may be approved by the Technical Secretary where there is no other practical, safe and lawful method of disposal.

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#### 1200-3-4-.04 PERMITS FOR OPEN BURNING

- (1) Any person having a valid operating permit to conduct open burning on February 9, 1977, may continue such open burning as authorized by the permit until the expiration date of the permit.
- (2) Any person proposing to conduct open burning not authorized by a valid permit on February 9, 1977, shall make application for, and have in his possession a valid open burning permit before such open burning is commenced.
- (3) Application for an open burning permit shall be made on forms supplied by the Department. Failure to submit completed forms or to supply requested supplementary information concerning a proposed open burning operation shall constitute just cause for refusing issuance of a permit. Failure to adhere to substantive provisions of any permits shall be just cause for revocation of a permit by the Technical Secretary.
- (4) The distances specified in Rule 1200-3-4-.03 assumes material to be burned is dry and in all other respects is in a state to sustain good combustion. Where this is not the case, the Technical Secretary may specify any special conditions necessary to comply with the intent of this Chapter. To this end, one other condition specified may be that the material may be given sufficient time to dry out before any burning is conducted.
- (5) No permit shall be issued for a site within 500 feet of the boundary of a registered sanitary landfill except for the burning of material grown on that site. A registered landfill is one that is approved by the Tennessee Department of Public Health, Division of Solid Waste Management, to which a registration number has been assigned.
- (6) Where there are extremely large quantities of materials to be burned, or other conditions indicate a nuisance is likely to be created, special conditions to reduce emissions or limit the nuisance the emissions can cause may be made a part of the granted permit.
- (7) The Technical Secretary may deny open burning permits if such burning is of a continuous nature or may issue an open burning permit with stipulation, that will lead to an alternative method of disposal.
- (8) The Technical Secretary shall not grant any application for an open burning permit that would interfere with the attainment or maintenance of the air quality standards. No open burning permit shall be issued to any particulate matter nonattainment area nor any location within one-half mile of the boundary of a particulate matter nonattainment area.
- (9) Any person proposing to conduct open burning not authorized by a valid permit on March 1, 1978, shall be subject to the provisions in paragraph 1200-3-9-.01-(4) as applicable.
- (10) Obtaining an open burning permit as required in this chapter does not relieve any person of the responsibility to obtain a permit required by any other agency or complying with other requirements of such agencies. Particular attention is directed to Tennessee Code Annotated, Section 39-518.

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